

Office of Personnel Management

§ 842.1002

and whether the position is primary or secondary. The Director of OPM retains the authority to revoke the agency head's determination that a position is a primary or secondary position, or that an individual's service in any other position is creditable under 5 U.S.C. 8412(d).

(b) The Department of Energy must establish a file containing each coverage determination made by the agency head under § 842.903 and § 842.904, and all background material used in making the determination.

(c) Upon request by OPM, the Department of Energy will make available the entire coverage determination file for OPM to audit to ensure compliance with the provisions of this subpart.

(d) Upon request by OPM, the Department of Energy must submit to OPM a list of all covered positions and any other pertinent information requested.

Subpart J—Customs and Border Protection Officers

SOURCE: 76 FR 42001, July 18, 2011, unless otherwise noted.

§ 842.1001 Applicability and purpose.

(a) This subpart contains regulations of the Office of Personnel Management (OPM) to supplement—

(1) 5 U.S.C. 8412(d) and (e), which establish special retirement eligibility for law enforcement officers, members of the Capitol Police and Supreme Court Police, firefighters, nuclear materials couriers, customs and border protection officers, and air traffic controllers employed under the Federal Employees Retirement System (FERS);

(2) 5 U.S.C. 8422(a), pertaining to deductions;

(3) 5 U.S.C. 8423(a), pertaining to Government contributions; and

(4) 5 U.S.C. 8425, pertaining to mandatory retirement.

(b) The regulations in this subpart are issued pursuant to the authority given to OPM in 5 U.S.C. 8461(g) to prescribe regulations to carry out the provisions of 5 U.S.C. chapter 84, in 5 U.S.C. 1104 to delegate authority for personnel management to the heads of agencies and pursuant to the authority given the Director of OPM in section

535(d) of the Department of Homeland Security Appropriations Act, 2008, Division E of Public Law 110-161, 121 Stat. 1844.

§ 842.1002 Definitions.

As used in this subpart:

Agency head means the Secretary of the Department of Homeland Security. For purposes of an approval of coverage under this subpart, agency head is also deemed to include the designated representative of the Secretary of Department of Homeland Security, except that the designated representative must be a department headquarters-level official who reports directly to the Secretary of Homeland Security, or to the Deputy Secretary of Homeland Security, and who is the sole such representative for the entire department. For the purposes of a denial of coverage under this subpart, agency head is also deemed to include the designated representative of the Secretary of Department of Homeland Security at any level within the Department of Homeland Security.

Customs and border protection officer means an employee in the Department of Homeland Security occupying a position within the Customs and Border Protection Officer (GS-1895) job series (determined applying the criteria in effect as of September 1, 2007) or any successor position and whose duties include activities relating to the arrival and departure of persons, conveyances, and merchandise at ports of entry. Also included in this definition is an employee engaged in this activity who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions within the GS-1895 job series (determined applying the criteria in effect as of September 1, 2007), or any successor position, for at least 3 years.

Employee means an employee as defined by 5 U.S.C. 8401(11).

First-level supervisors are employees classified as supervisors who have direct and regular contact with the employees they supervise. First-level supervisors do not have subordinate supervisors. A first-level supervisor may